

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10705 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

SAVJANI & SONS

Versus

STATE OF GUJARAT

Appearance:

MR PM THAKKAR for M/S THAKKAR ASSOC. for Petitioner
MR DP JOSHI, AGP for the respondents.

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 21/12/98

ORAL JUDGEMENT

Rule. Service of rule waived by Mr. D.P. Joshi, Ld. A.G.P. for the respondents.

2. Heard. The petitioners have challenged impugned order dated 6/5/1986 passed by the learned Urban Land Tribunal dismissing the petitioners' appeal u/S. 33 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the Ceiling Act'), as also the order dated 9/8/1983 passed by the Competent Authority. Short grievance of the petitioners is that the orders have been

passed without considering the merits of the petitioners' case and without hearing the petitioners. On a reference to the impugned order passed by the Ld. Additional Urban Land Tribunal it can be seen that the appeal filed by the petitioners has been dismissed for default. It clearly appears from the impugned order that the petitioners were not intimated about whether the appeal would be dismissed on the date fixed for hearing. Besides, the request for adjournment has also not been considered. Mr. Thakkar, Ld. Senior Counsel for the petitioners placed reliance upon decision of this Court in the case of Jashbhai Somabhai Patel v/s. Competent Authority & Deputy Collector reported in G.L.H. (UJ) 42 at page 45. This Court has observed that the appellate authority dealing with appeal u/S. 33 of the Ceiling Act did not have jurisdiction to dismiss the appeal for non-appearance of the parties. This being the view taken and followed by this Court, the matter is required to be remanded to the appellate authority. Following order is, therefore, passed :-

Impugned order rendered by the Ld. Addl. Urban

Land Tribunal is hereby set aside. The matter is remanded to the said Tribunal for reconsideration of the merits and deciding the same after hearing the petitioners in accordance with law. It is made clear that it will be open to the appellate authority to hear persons whom the appellate authority find to be interested in the land in question. Rule made absolute in these terms. No order as to cost.

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PVR.